

BEFORE THE ETHICS COMMISSION
FOR THE STATE OF TENNESSEE
AT NASHVILLE

IN RE: Toyota Motor Engineering)
& Manufacturing North America,)
Respondent.)

No. 2008-0050

CONDITIONAL ASSESSMENT ORDER

This matter came on to be heard informally by the Commission on August 26, 2008, at its regularly scheduled meeting. Commission staff presented documentation indicating that Respondent failed to register as an employer of a lobbyist as required by Tenn. Code Ann. § 3-6-302(a)(1).

FINDINGS OF FACT

Documentation on file with the Commission shows, and the Commission finds, as follows:

1. Lobbyist Registration. On March 3, 2008, Ms. Stephanie Arvin registered with the Commission as a lobbyist. Ms. Arvin listed Toyota Motor Engineering & Manufacturing North America (Toyota) as her employer.
2. Employer Registration.
 - a. Toyota was not registered as an employer as of April 7, 2008.
 - b. Commission staff sent an e-mail to Ms. Arvin on April 7, 2008, noting that her employer had not registered.
 - c. On May 1, 2008, Commission staff sent to Ms. Arvin a notice that Toyota was not registered as an employer of a lobbyist.
3. Notice of intent to impose civil penalty.
 - a. On July 9, 2008, Commission staff sent to Ms. Arvin, by certified mail, return receipt requested, a notice that the Commission would consider at its next meeting the question of assessing civil penalties against Toyota for failure to register, and that Toyota could choose to participate in an informal show cause proceeding if it chose to do so.
 - b. The notice set forth the allegations, the maximum amount of civil penalties that could be assessed, the date, place, and time of the meeting, and Toyota's

opportunity to participate in an informal proceeding at the meeting either by appearing personally or by submitting a sworn statement and documents.

- c. According to the green certified mail return receipt card that was returned to the Commission, Toyota received the notice on July 11, 2008.
- d. On July 11, 2008, Toyota registered as an employer of a lobbyist.

4. Show cause hearing.

- a. On July 31 Toyota filed with the Commission a letter apologizing for the failure to register and confirming a desire to appear at the show cause hearing.
- b. Toyota appeared through legal counsel at the show cause hearing.

CONCLUSIONS OF LAW

Toyota employed Ms. Arvin as an in-house lobbyist. Both Toyota and Ms. Arvin had a duty to register within seven days of the date in 2008 upon which the parties entered into an agreement or arrangement, or had an agreement or arrangement, for Ms. Arvin to provide lobbying services for Toyota. Tenn. Code Ann. § 3-6-302(a)(1). Op. Tenn. Ethics Comm'n, No. 06-01 (Dec. 12, 2006).

The Act authorizes the Commission to administratively assess a civil penalty of not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred fifty dollars (\$750) if an employer of a lobbyist fails, without good cause, to timely register. Tenn. Code Ann. § 3-6-306 (a)(1)(A)(i). Toyota did not show any good cause for the failure to register. Since Toyota should have registered more than 30 days before it did, the Commission is authorized to impose a civil penalty of seven hundred fifty dollars (\$750) in this case.

The Commission has taken steps through training, website postings, and notices to help employers of lobbyists to come into compliance with the Act. More than a year and a half has passed since the filing requirements of the Act became effective.

The Commission further finds that there are no aggravating factors accompanying the failure to file. The Commission finds two mitigating factors: Toyota responded to the show cause notice (both in writing and by sending a representative to the hearing), and Toyota registered promptly upon receipt of the show cause notice. Accordingly, the Commission finds that Toyota should be assessed a civil penalty of four hundred (\$400) dollars.

This assessment cannot be imposed or become final until after respondent has been afforded an opportunity for a contested case hearing under the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101—4-5-325. Tenn. Code Ann. § 3-6-107(8). The time within which that opportunity can be taken commences upon the date this order is issued.

CONDITIONAL ORDER

It is therefore ORDERED that a civil penalty in the amount of four hundred dollars (\$400) be assessed against Toyota for its failure to timely register as an employer of a lobbyist.

It is FURTHER ORDERED that the Executive Director shall issue this order and file it in the Commission's offices.

It is FURTHER ORDERED that this order shall not become final if respondent files a timely request for reconsideration or petition for a contested case hearing

It is FURTHER ORDERED that the Executive Director shall cause to be provided to the respondent, by either personal service, certified mail return receipt requested, or overnight delivery, a copy of this order, a copy of instructions on how to file a request to reconsider or a petition for a contested case hearing, and notice of the following:

Respondent's right to seek reconsideration of this order by filing with the Commission, within fourteen (14) days of this order, a written request for reconsideration in the form set forth in the notice;

Respondent's right to initiate a contested case proceeding by filing with the Commission, within thirty (30) days of this order, a petition for a contested case hearing in the form set forth in the notice; and

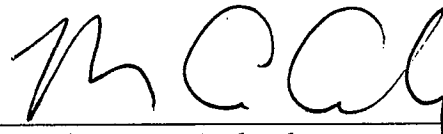
That in the event of failure to timely file a request for reconsideration or a petition for a contested case hearing the order shall become final and may form the basis for legal action to collect the civil penalty as a personal judgment against respondent.

SO ORDERED.

Issued this 4th day of September, 2008

TENNESSEE ETHICS COMMISSION

By: _____

A handwritten signature in dark ink, appearing to read 'M. C. Androphy', written over a horizontal line.

Bruce A. Androphy
Executive Director